

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

JEREMY DRUCKER, individually and on behalf of a class of others similarly situated,

Plaintiffs,

v.

Case No. 09-CV-2305-KHV-GLR

**FERRELL GAS PARTNERS, L.P.,
FERRELL GAS, L.P., and
FERRELL GAS, INC.,**

Defendants.

ORDER

Pending before the Court is Defendants' Motion to Stay Proceedings Pending a Decision by the Judicial Panel on Multi-District Litigation (doc. 11). Defendants request that the Court stay all proceedings in this case pending a decision on Plaintiffs' motion for transfer of six actions for consolidated pretrial proceedings pursuant to 28 U.S.C. § 1407 to the District of Kansas for coordinated pretrial proceedings. That motion is pending before the Judicial Panel on Multidistrict Litigation ("JPML") in MDL No. 2086, styled by the Panel as *In re Pre-Filled Propane Tank Marketing & Sales Practices Litigation*. Plaintiffs have filed a response memorandum (doc. 15) stating that they consent to a stay of Defendants' obligation to file a responsive pleading to Plaintiffs' Amended Complaint, but asking that parties' initial disclosure obligations under Rule 26 not be stayed given that the parties will be obligated to comply with the Rule 26 disclosure obligations even if Plaintiff's motion is granted and the cases are consolidated for pretrial proceedings. In Defendants' reply, they argue that the Court should stay all activity pending the MDL decision because this matter is likely to be on the JPML's September docket and, based on the JPML's past practice, will be decided within a few weeks of

argument. As all of the actions are in their incipiency, they should all be stayed pending the JPML's decision, so that the transferee court can decide how best to manage this litigation.

Having considered the motion and partial opposition filed by Plaintiffs, the Court hereby sustains in part and overrules in part Defendants' Motion to Stay Proceedings. The Court finds no reason to stay the parties' obligation to serve disclosures as they need to be made regardless of how the JPML rules on the motion. Accordingly, all pretrial proceedings and deadlines, except for service of initial disclosures pursuant to Federal Rule of Civil Procedure 26(a), are hereby stayed pending the JPML's decision on Plaintiffs' motion for transfer of actions for consolidated pretrial proceedings pursuant to 28 U.S.C. § 1407.

IT IS SO ORDERED.

Dated in Kansas City, Kansas, this 28th day of July, 2009.

s/ Gerald L. Rushfelt
Gerald L. Rushfelt
United States Magistrate Judge